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ABSTRACT

The elective unit on Constitutional Law is intended for 11th and 12th grade students. The unit is designed around major course goals which are to develop those concepts whereby students recognize and understand the following three topic areas: 1) Role of the Federal Judicial Branch of Government, 2) Supreme Court Cases Involving the Three Branches of Government, and 3) Supreme Court Cases that Relate to Civil Liberties. Teaching strategies used are questioning techniques to stimulate classroom discussion. Under each topic are statements of which the student is to gain an understanding, suggested questions related to the understanding, and answers to the questions. To successfully use this unit, the students and teachers must have access to resource materials mentioned in the course. (Author/RM)

New York

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CONSTITUTIONAL LAW-ELECTIVE

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June 15, 1974

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CONSTITUTIONAL LAW is a one semester course taught at the Pearl River High School as an elective for eleventh and twelfth grade students. The goal of this course is the intelligent and responsible sharing of power in order to attain justice.

Governments are instituted among men in order to guarantee inalienable natural rights, but men have to surrender some alienable freedom in order to have a society. Social order requires law, and laws must be made, interpreted and enforced, so the legislative, judicial, and executive functions are defined. The concept of justice implies a government of law, not of man, and its ideal is an equal justice for all. Pure democracy, as practiced in the Greek city-states, and in New England town meeting, permitted the citizen to take part directly in government, but the increasing size of political units and their populations has developed the machinery of representation and of federalism. In the latter, the balancing of local and central control has been a varying equation depending upon the time. The ability of the central government to extend its powers to the borders of its realm has varied over the centuries and has been many machineries of empire, none so effective as that established by the Northwest Ordinance of 1787.

The government of any society at any period has represented some balance of freedom and security for its people, ranging from the Jeffersonian ideal of little government and much freedom to the dictatorships with some security and no freedom. Men, not law, have ruled sometimes; privilege, not equal justice for all, has at times been rampant. Economic specialization and competition have produced tactics on legislation. In the making of laws today, 50 grist mills grind out laws which often conflict and overlap bewilderingly, to the confusion of the citizen. Every generation relearns anew the hard tasks of democracy.

At no other time in our history has government and its problems evoked more widespread and sustained interest than today. Although comprehension of government requires a knowledge of highly technical terms and an understanding of structure, the course will not follow a format of structure, but rather become a practical instrument reflecting the needs and aspirations of our students. The course recognizes government as the science of human relationships and within this framework it will stress the individual and his relation to society, and with groups which have common as well as conflicting interests.

The course will provide adequate historical material to serve as the necessary background to grasp theories and principles in the cognitive domain. An emphasis will be placed on correlating governmental principles and functions with contemporary events. The constitution will take on the image of a living document which then shapes the pattern of national government.

The course is designed to examine the opinions of the Supreme Court of the United States in order to witness the legislation-by-interpretation doctrine as it correlates governmental principles and functions. The course provides adequate historical material to serve as the necessary background to grasp theories - in short, the impact the Supreme Court has had on our lives.

CONCEPTS

A few concepts which have been introduced or extended in interpretation by the understandings and related content include:

Judicial Power
Original Jurisdiction
Appellate Jurisdiction
Dissenting Opinion
Strict Constructionist
Loose Interpretation
Judicial Review
Congressional Taxation Power
National Supremacy
Presidential Power
Interstate Commerce
Regulation of Business
Life, Liberty and Property
Citizenship
Discrimination
Censorship
"Clear and Present Danger"
Counsel and Trial
Double Jeopardy
Picketing and Demonstrating
Education
Equal Protection
Sex Discrimination
Religion
"New" Equal Protection
Abortion
Obscenity
Due Process
Right of Privacy

CONSTITUTIONAL LAW
GOALS AND OBJECTIVES

GOAL I - TO DEVELOP THOSE CONCEPTS WHEREBY STUDENTS RECOGNIZE AND UNDERSTAND THE ROLE OF THE FEDERAL JUDICIAL BRANCH OF GOVERNMENT.

OBJECTIVES -

1. That % students will satisfactorily be able to analyze and explain the concept of national judicial power.

2. That % students will satisfactorily be able to identify and appreciate the nature and scope of the federal judicial power.

3. That % students will satisfactorily be able to identify and describe the processes of the Federal Courts.

4. That % students will satisfactorily be able to recognize and illustrate the stages in the history of the Supreme Court.

5. That % students will satisfactorily be able to identify and discuss the contributions of the men who have served on and influenced the United States Supreme Court.

6. That % students will satisfactorily be able to recognize and appreciate the enduring nature of Supreme Court Decisions.

7. That % students will satisfactorily be able to recognize, discuss and explain the possible reform of the Supreme Court.

GOAL II - TO DEVELOP THOSE CONCEPTS WHEREBY STUDENTS RECOGNIZE AND UNDERSTAND SUPREME COURT CASES INVOLVING THE THREE BRANCHES OF GOVERNMENT.

OBJECTIVES -

1. That % students will satisfactorily be able to explain the concept of judicial review as it affects decisions and laws of a state.

2. That % students will satisfactorily be able to identify and discuss the decisions affecting the concept of congressional powers over taxation.

3. That % students will satisfactorily be able to recognize the basis upon which decisions have been made with regard to national supremacy.

4. That % students will satisfactorily be able to recognize the areas of the Constitution that were involved in the rulings set forth by the court in those decisions governing the area of presidential powers.

5. That % students will satisfactorily be able to illustrate the immediate and long range impact of the Supreme Court's findings in those cases involving Congress and the Interstate Commerce Clause.

6. That % students will satisfactorily be able to analyze and appreciate judicial interpretation of the court in cases pertaining to the regulation of business.

7. That % students will satisfactorily be able to analyze and explain the court's decisions in cases involving organized labor.

8. That % students will satisfactorily be able to discuss the significance of the court's rulings on matters related to the concepts of life, liberty and property.

GOAL III - TO DEVELOP THOSE CONCEPTS WHEREBY STUDENTS RECOGNIZE AND UNDERSTAND SUPREME COURT CASES IN THE AREA OF CIVIL LIBERTIES.

OBJECTIVES -

1. That % students will satisfactorily be able to discuss the decisions of the Supreme Court in terms of citizenship.

2. That % students will satisfactorily be able to identify the principles involved in the decisions rendered by the Supreme Court in cases deemed in the broad area of discrimination.

3. That % students will satisfactorily be able to explain the rationale of the court in those specific cases that constitute the concept of voting discrimination.

4. That % students will satisfactorily be able to describe the court's thinking behind its interpretation in various cases underscored as censorship.

5. That % students will satisfactorily be able to explain how the Supreme Court has provided conflict in its decisions affecting "counsel and trial".

6. That % students will satisfactorily be able to describe the court's position in cases involving double jeopardy.

7. That % students will satisfactorily be able to recognize the Supreme Court's guidelines for picketing and demonstrating.

8. That % students will satisfactorily be able to explain the impact that the Supreme Court has had on education through judicial decision making.

9. That % students will satisfactorily be able to appreciate the basis upon which the Supreme Court handed down its rulings in those cases affecting the concept of religion as stated in the first amendment to the Constitution.

10. That % students will satisfactorily be able to identify and discuss how the court has used the "New Equal Protection Clause" in cases relating to civil rights.

11. That % students will satisfactorily be able to illustrate how the Supreme Court has provoked controversy over the concept, "Quality of Life" in its rulings on abortion and obscenity.

12. That % students will satisfactorily be able to analyze and explain how the court has used the "Equal Protection Clause", in cases involving sex discrimination.

1. THE COURT DECIDES ONLY THOSE CASES WHICH MEET CERTAIN PRESCRIBED STANDARDS.

SUGGESTED QUESTIONS RELATED TO THE UNDERSTANDING.

. What are the rules and decisions guiding the Justices in choosing the cases they will decide?

- The Judicial Power Granted in Art. III, Section 2, Clause 1 of the Constitution.
- Eleventh Amendment overruled Court's Decision in Chisholm v. Georgia.
- Principle of immunity prohibits suits against a state by own citizens (Hans v. Louisiana 1890).
- A suit may be brought against state officer to restrain illegal acts. Osborn v. Bank, 1824.
- Congress ordained and established inferior constitutional courts
- Congress set up legislative courts.

. How does Congressional Power affect the Federal Courts?

- Constitutional Courts are governed by Doctrine of Separation of Powers.
- Hayburn Case 1792, court rejected attempt by legislature to impose legislative or administration functions.
- Legislative Courts may be given nonjudicial functions and Congress has power over salary and tenure of judges.

2. THE SUPREME COURT'S ORIGINAL JURISDICTION CAN NEITHER BE TAKEN AWAY NOR ADDED TO BY CONGRESS

SUGGESTED QUESTIONS RELATING TO THE UNDERSTANDING

. May other federal courts exercise original jurisdiction?

- Constitution nowhere provides that original jurisdiction of Supreme Court shall be exclusive.

. How does Congress exercise control over the Appellate jurisdiction of the court?

- Art. III, Sec. 2, Cl. 2, allows Congress to have plenary power over Appellate Jurisdiction of Supreme Court.
- Congress could deprive court of all such jurisdiction

and make final decisions of inferior courts. (1869- Reconstruction Act)

3. RULES AND DECISIONS GOVERNING JURISDICTION AND STANDING TO SUE VEST IN THE JUSTICES CONSIDERABLE DISCRETIONARY POWER.

SUGGESTED QUESTIONS RELATING TO THE UNDERSTANDING.

- Congress has been reluctant to limit or destroy judicial review.
- State Acts and State Decisions to limit or destroy judicial review have usually failed.
- Other departments of government and the people have supported judicial review.
- Congress may strike at judicial power through control over jurisdiction (Yakus v. U.S. 1944)

. What other self-denying ordinances may prevent a court from accepting and deciding the case?

- Court will not pass upon constitutionality in a friendly, nonadversary, proceeding
- Court will not anticipate question of constitutional law in advance of necessity for deciding it.
- Court will not formulate a rule of law broader than facts of case requires.
- If possible, court will dispose of case on nonconstitutional grounds
- Court will not pass upon validity of statute on complaint of one who fails to show injury to person or property
- Court will not pass upon constitutionality of a statute at the instance of one who has accepted its benefits
- Whenever possible, statutes will be construed so as to avoid a constitutional issue.

. Will the court render decisions where non-justifiable issues are involved?

- No, this merges into "Political Questions". Issue discussed in Baker v. Carr.

. What has been the court's decision regarding standing to sue.

- Massachusetts v. Mellon 1923
- Frothington v. Mellon 1923
- Flast v. Cohen

4. THE TENOR OF CONGRESSIONAL ACTION THROUGHOUT THE YEARS HAS BEEN TO CONTRACT THE OBLIGATORY JURISDICTION OF THE SUPREME COURT.

SUGGESTED QUESTIONS RELATING TO THE UNDERSTANDING

. What statute establishes "Judicial Power" of Court?

- Article III of Constitution
- Supreme Court has nine Justices - 1869
- Circuit Duties Curtailed - 1891

. What is the present method of Supreme Court review?

- On appeal from state courts
- On appeal from courts of appeal
- On appeal from District courts
- On Certiorari from state courts
- On Certiorari from Courts of Appeal
- Bulk of Applications are rejected because of defective petitions, failure to present issue of importance or are not distinguishable from well-established precedents

. How is the actual work of the Supreme Court organized?

- The reading stage of petitions
- Court listens to oral arguments
- Conference days are set aside for discussion and decision of cases argued during the week
- The opinion or opinions are written and circulated

. What are the basic source materials of the Supreme Court decisions?

-United States Reports
-United States Supreme Court Reports, Lawyers Edition
-Supreme Court Reporter
-United States Law Week

5. THE HISTORY OF THE COURT HAS BEEN SHAPED AS MUCH BY EVENTS AS BY THE MEN WHO HAVE SERVED ON THE COURT.

SUGGESTED QUESTIONS RELATED TO THE UNDERSTANDING

. How did John Marshall emerge the Judicial Branch as an equal partner?

- Marbury v. Madison (1803)
- Strict Constructionist
- Championed Nationalism

- What did John Marshall Harlan do to earn the title of Champion of Black Civil Rights?

  -"Our Constitution is color-blind"
  -Plessy v. Ferguson
  -Barenblatt v. United States (1959)

- Why is Oliver Wendell Holmes remembered as "The Great Dissenter"?

  - Argued that the law must protect the common man.
  - His dissents failed to sway his conservative colleagues - many of his minority opinions have been adopted by the court.

- How did Joseph Story balance the Marshall Court?

  - His decisions reflected a concern for theories of government sovereignty and the rights of man
  - Balanced John Marshall's Nationalism

- What did Roger Taney contribute to the court?

  - Denied the states' power to obstruct federal processes
  - His legal skill enhanced the stature of the court.
  - Damaged the court's prestige in 1856 by the Dred Scott Decision

- How did Charles Evans Hughes perform on the Supreme Court?

  - Opinions sustained the cause of civil rights against encroachment by the states.
  - Outmaneuvered President Franklin D. Roosevelt's attempt to pack the court.

- Why was Louis Brandeis called a "Lawyer's Lawyer" as well as a "Protector of Human Liberties"?

  - Fought against trusts, monopolies and other powerful business interests of his day.

- What quality did Hugo Black bring to the Supreme Court?

  - Intense moral commitment
  - Was revered as a defender of personal liberties, freedom of speech and the rights of "The weak, the helpless and the outnumbered."

- Why is Harlan Fiske Stone considered one of three "Great Dissenters"?

  - His zeal for social justice
  - wrote the majority opinions questioning the power of the popular majority to control individual conscience and expression
  - Clearly stated the limits of judicial review

- Why is Benjamin Nathan Cardozo rated as among the Supreme Court's dozen greats?

  - Decisions helped to prepare the way for future liberal rulings
  - a great judge of common law
  - had a reputation for the grace and power of legal writing

- How did Felix Frankfurter adhere to strict judicial restraint?

  - Probe a case for the fine legal point on which it might turn the case
  - Based his opinions on comparatively minute technicalities
  - Sparingly struck down legislation through the use of judicial power.

- What areas of accomplishment did Earl Warren leave with the Supreme Court?

  - Pulled the court together and gave it a sense of direction.
  - Spoke for the unanimous court in declaring racial segregation in public schools unconstitutional
  - His concern for individual freedom and willingness to brush aside legal precedent led to controversial decisions in the areas of race relations, criminal procedure and legislative reapportionment.

TOPIC II - SUPREME COURT CASES INVOLVING THE THREE BRANCHES OF GOVERNMENT

1. THE PRINCIPLE OF JUDICIAL REVIEW BY THE SUPREME COURT AFFECTED DECISIONS AND LAWS OF A STATE.

SUGGESTED QUESTIONS RELATED TO THE UNDERSTANDING.

. Why is Fletcher v. Peck (1810) an historic case?

- First in which court declared a state law unconstitutional

. How did Martin V. Hunter's lessee (1816) further extend the power of the Supreme Court?

- Declared its right to review decision of a state court?

. How did Dartmouth College v. Woodward (1819) define a corporate charter?

- Declared it a contract and said it may not be impaired by subsequent legislation.

. Why is Wesberry v. Sawders (1964) important to the principle of judicial review?

- Court ruled that all congressional districts should have approximately the same number of voters.

2. THE SUPREME COURT HAS ALTERED CONGRESSIONAL POWERS OVER TAXATION TO A GREAT EXTENT.

SUGGESTED QUESTIONS RELATED TO UNDERSTANDING.

. In what way was Hylton v. United States (1796) an historic case?

- Declared that Congress had the right under the Constitution to levy only direct taxes in proportion to the population.

. Why was Pollock v. Farmers' Loan and Trust Co. (1895) important to the precedent?

- The court reaffirmed its ruling that direct taxes must be apportioned according to population.

- How did Bailey v. Drexel Furniture Co. (1932) limit the taxing power of Congress?

  - Declared that Congress could not use its taxing power to penalize, but only to raise revenue.

- Why was Charles C. Steward Machine Co. v. Davis (1937) and Helvering v. Davis (1937) a liberal decision?

  - The court ruled that Congress may spend money in the aid of the general welfare.

- How did New York v. United States (1946) produce a stalemate over Congress' power to tax?

  - The Court refused to distinguish South Carolina's traffic in liquor from New York State's traffic in mineral waters.

  - The position of the Court was divided in three directions - thus the justices were so sharply divided no "opinion of the Court" was possible.

- Why is United States v. Kahriger (1953) a good example of the extent of taxation power possessed by Congress?

  - The Court upheld the Congressional Act of 1952 requiring gamblers to procure a license and pay a tax.

  - The Court interpreted that raising of revenue for the Federal Government can stamp out professional gambling.

  - A weapon to take over matters traditionally within the area of state police power.

- What limitation on taxation did Harper v. Virginia Board of Education (1966) provide?

  - Declared that the twenty-fourth Amendment (1964) prohibited the use of a poll tax in Federal elections and State elections as well.

- How did Flast v. Cohen (1968) provide the taxpayer with input to the expenditure of federal funds?

  - Declared that a taxpayer can urge more than his "general interest".

3. THE SUPREME COURT HAS ESTABLISHED THE CONCEPT OF NATIONAL SUPREMACY IN CERTAIN AREAS.

SUGGESTED QUESTIONS RELATED TO THE UNDERSTANDING.

. Why is McCulloch v. Maryland (1819) a land mark case in the area of national supremacy?

- Declared that no state had the power to tax the national government or any of its agencies.

- ruled that the Federal Government could pass "necessary and proper" laws which dealt with activities not specifically listed in the Constitution.

. How did Hines v. Davidonitz (1941) sgrengthen the concept of national supremacy?

- Declared that acts of Congress are supreme over acts of the states.

4. THE SUPREME COURT HAS CLARIFIED THE CONSTITUTION IN THE AREA OF PRESIDENTIAL POWER?

SUGGESTED QUESTIONS RELATED TO THE UNDERSTANDING.

. What important Constitional point did Ex-parte Merryman (1861) clarify?

- Declared that the President did not have the right to suspend the Writ of Habeas Corpus.

- Exclusive power of Congress.

. Why is Ex-Parte Milligan (1866) an historic case?

- First in which the Court held that military courts could not be permitted to try civilians in any district where civil courts were able to function.

. How did Mississippi v. Johnson (1867) strengthen the position of Presidency?

- The court ruled that it had no power to keep the President from exercising his functions as the executive head of the government.

- What power did Meyers v. United States (1927) confirm?

  - The court declared that the President had the power to remove executive officers from office at will.

- How did Rathbun v. United States (1935) restrict the President's power to remove executive officers?

  - Declared executive officers could only be removed for "inefficiency, neglect of duty or malfeasance of office."

- In what area did United States v. Curtiss Wright (1936) indicate there is a great reservoir of inherent power possessed by the President?"

  - The Court upheld the delegation of power by Congress to the President in matters relating to foreign affairs.

- Why was Korematsu v. United States (1914) an important decision in terms of "National Security?"

  - The Court upheld the President's "War Time Powers".

  - Ruling also permitted constitutional power to fall into matters related to the First Amendment.

- What did the court rule in United States Ex. Rel. to TH V. Quarles (1955) on presidential court-martial jurisdiction?

  - Declared that an honorably discharged serviceman was not subject to Court-Martial jurisdiction for offenses allegedly committed before discharge .

  - Also ruled that a provision of the uniform code of military justice providing the contrary was invalid.

- How did Kinsella V. Singleton (1960) affect Congress in non-capital cases?

  - Ruled that Congress cannot deprive a civilian citizen of the United States of his constitutional guarantees of trial by jury...regardless of the difficulties in making a civil trial available.

5. THE SUPREME COURT'S FINDINGS IN THOSE CASES INVOLVING CONGRESS AND THE INTERSTATE COMMERCE CLAUSE HAVE HAD IMMEDIATE AND LONG-RANGE IMPACTS.

SUGGESTED QUESTIONS RELATED TO UNDERSTANDING.

. What impact on private-property did Munn v. Illinois (1877) generate?

- Declared private property is subject to government regulation when it is devoted to public use.

- Court ruled that an illinois law regulating rates charged by grain warehouses was not a violation of the Fourteenth Amendment

. How did Wabash, St. Louis and Pacific Railroads v. Illinois (1886) affect transportation?

- Declared that states cannot regulate transportation within their boundaries if that transportation is part of interstate commerce.

. What affect did Hammer v. Dagenhart (1918) have on the question of child labor?

- The Court ruled that child labor legislation was reserved to the states.

. Why was United States v. Darby (1941) important to workers?

- The court declared that Congress under the power of interstate commerce could regulate the hours and wages of employees.

. How did National Labor Relations Board v. Jones and Laughlin Steel Corp. (1937) affect labor?

- Declared the Wagner Act was constitutional.

- Ruled Interstate Commerce as including not only industrial products but also labor.

. In what area did Southern Pacific Co. v. Arizona (1945) indicate as primary interests?

- Court declared national interest is paramount to state interest in matters of adequate, economical and efficient rail transportation service.

- Why did Atlanta Motel v. United States (1964) uphold the public accommodations section of the Civil Rights Act of 1964?

  - Court relied on loose interpretation of the power to regulate interstate commerce.

- How did Katzenbach v. McClung (1964) broaden the scope of the Interstate Commerce Clause?

  - Court ruled that the Civil Rights Act (1964) not only stopped racial discrimination in an establishment serving interstate travelers, but also to a local restaurant using food that had moved in commerce between the states.

- What impact did Daniel V. Paul (1969) have on the interstate commerce clause?

  - The court upheld the 1964 Civil Rights Act and determined that a recreational facility was a "Public Accommodation" affecting commerce.

6. THE EXTENT OF JUDICIAL INTERPRETATION OF THE SUPREME COURT IN CASES PERTAINING TO THE REGULATION OF BUSINESS HAS BEEN SIGNIFICANT.

SUGGESTED QUESTIONS RELATED TO THE UNDERSTANDING.

- Why is United States v. E. C. Knight Co. (1895) significant to business?

  - Court declared a sharp distinction existed between commerce and manufacturing.

  - Decision weakened the enforcement of the Sherman Anti-Trust Act.

- How did Northern Securities Co. v. U.S. (1904) decide the matter of stock transactions?

  - The court upheld the Federal Government's claim that stock transactions (whether reasonable or unreasonable) are in restraint of trade, if they create an illegal combination.

  - Ruled such transaction would come under the Sherman Act.

- What condition did Standard Oil Co. of New Jersey v. United States (1911) apply to the regulation of business?

  - Court ruled that the Anti-Trust Law left room for the application of the "Rule of Reason " as to which combinations were in restraint of trade.

- How did electric Bond and Share Company v. Securities Exchange Commission (1938) and American Power and Light Co. v. Securities Exchange Commission (1946) reglate business?

  - Declared provisions of the Public Utility Holding Act were constitutional.

  - Included the required registration of stock with S.E.C. prior to offering it to the public.

- In what area did Federal Trade Commission v. Colgage-Palmolive Co. (1965) give additional power to the Federal Government?

  - Court ruled that through a regulatory agency the Federal Government has the power to control the honesty of advertising.

7. THE SUPREME COURT'S FINDONGS IN CASES INVOLVING ORGANIZED LABOR HAS OFTEN RESTRICTED AS WELL AS ENCOURAGED THE GROWTH OF THE LABOR MOVEMENT.

SUGGESTED QUESTIONS RELATED TO THE UNDERSTANDING.

- How did In Re-Debs (1895) affect the growth of the Labor Movement?

  - Court declared that Labor Unions were combinations in restraint of trade.

  - Under provisions of Sherman Anti-Trust Act of 1890.

- How did National Labor Relations Board v. Jones & Laughlin Steel Corp. (1937) affect the collective bargaining position of labor?

  - Court upheld the constitutionality of the Wagner Act.

  - Gave recognition to the regulatory role of the Government over both business and labor.

- Why did the Supreme Court in Adkins v. Children's Hospital (1923) declare the District of Columbia Minimum Wage Law unconstitutional?

  - Court declared the law violated due process and the Fifth Amendment.

8. THE SUPREME COURT HAS MADE SIGNIFICANT RULINGS ON MATTERS RELATED TO THE CONCEPTS OF LIFE, LIBERTY AND PROPERTY.

SUGGESTED QUESTIONS RELATED TO THE UNDERSTANDING.

- How did the Charles River Bridge Co. v. Warren Bridge Co. (1937) modify the Dartmouth College Case (1819)?

  - The court ruled that the states have the right to alter or end such contracts as in the interest of the public welfare.

- Why did Barron v. Baltimore (1833) become a landmark Fifth Amendment case?

  - Court declared that the Fifth Amendment Limited only the Federal Government and not State Governments.

- What was the importance of Billie Sol Estes v. Texas (1965) decision?

  - The Courts' ruling that televising and broadcasting Estes' trial had deprived him of his right to due process of law as granted by The Fourteenth Amendment.

- How did Elfbrandt v. Ryssell (1966) case use the First Amendment?

  - The Court declared that a state law was unconstitutional.

  - The ruling was that state loyalty oaths are unconstitutional.

- How did Camara v. Municipal Court of San Francisco (1967) strengthen James Otis' statement - "that a man should be as secure in his home as a prince is in his castle"?

  - The court held that, in the absence of emergency, a warrant was required for inspection of a residence where the homeowner objected.

TOPIC III - SUPREME COURT CASES THAT RELATE TO CIVIL LIBERTIES

1. THE SUPREME COURT HAS CLARIFIED AND ENLARGED THE MEANING OF CITIZENSHIP DURING SPECIFIC PERIODS IN AMERICAN HISTORY.

SUGGESTED QUESTIONS RELATED TO THE UNDERSTANDING.

- Why is Slaughte House Cases (1873) an historic case?
  - Court's ruling distinguished between state and national citizenship and resended the protection of civil rights to the states.
- What did United States v. Wong Kimark (1898) clarify?
  - Declared that anyone born in the United States is an American citizen.
- How did Robert F. Kennedy v. Mendoza Martinez (1963) strengthen the meaning of citizenship?
  - Court declared that the citizenship of an American cannot be revoked without (a trial conforming with) due process of law, for leaving the country to evade military service.

2. THE SUPREME COURT HAS REFLECTED CERTAIN PRINCIPLES IN ITS DECISIONS IN CASES INVOLVING THE BROAD AREA OF DISCRIMINATION.

SUGGESTED QUESTIONS RELATED TO THE UNDERSTANDING.

- How did the court rule on the constitutionality of the civil rights cases (1883)?
  - Declared that the Civil Rights Act of 1875 establishing civil equality for negroes was unconstitutional.
- How did Morgan v. Virginia (1946) affect public carriers?
  - The court ruled that state segregation laws were unconstitutional as they applied to public carriers moving in interstate commerce.
- What did Shelley v. Kraemer (1948) do in the area of court enforcement of discrimination?

The court ruled that state or federal court enforcement of discrimination against negroes violated the Fourteenth and the Fifth Amendments

3. THE SUPREME COURT HAS INTERVENED IN SPECIFIC CASES THAT CONSTITUTE THE CONCEPT OF VOTING DISCRIMINATION?

SUGGESTED QUESTIONS RELATED TO THE UNDERSTANDING

. How did Gunn v. United States (1915) uphold the Fifteenth Amendment?

- The court declared that racial discrimination in the matter of voting was unconstitutional.

. How did Nixon V. Herndon (1927) decide discriminatory state primary election laws?

- Declared they were in violation of the "Equal Protection of the Law" clause as stated in the Fourteenth Amendment.

. What did the court rule in Smith v. Allwright (1944) in the matter of Negro voting on the part of a political party?

- Court declared discrimination was as unconstitutional as discrimination by a state.

. How did Lassiter v. Worthampton County Board (1959) rule on the use of a literacy test?

- The court upheld the constitutionality of a literacy test as a qualification for voting.

. Why did Wesbury v. Sanders (1964) case affect voting discrimination?

- Court ruled that all congressional districts should have approximately the same number of voters.

. What area of voting discrimination did Harper v. Virginia (1966) affect?

- Payment of a poll tax
- Declared that the requirement of payment of a poll tax as a precondition to voting in a state or local election is unconstitutional

4. THE SUPREME COURT'S INTERPRETATION IN VARIOUS CASES UNDERSCORED AS CENSORSHIP HAS BEEN VARIED AND COMPLEX IN TERMS OF THE "CLEAR AND PRESENT DANGER" CLAUSE.

SUGGESTED QUESTIONS RELATED TO THE UNDERSTANDING

- What did the court interpret "clear and present danger" to mean in Schenck v. United States (1919)?
  - The court ruled that freedom of the press as provided in the Constitution means that circulation pamphlets urging resistance to draft creates a "clear and present danger" to the nation's war effort.
- Under what circumstances did Near v. Minnesota (1931) establish for advance cnesorship by the Federal Government?
  - Declared only in "extraordinary" circumstances can government set up advance censorship.
- How did Dennis V. Wilson (1952) uphold the constitutionality of the Smith Allied Registration Act?
  - Court ruled that "their conspiracy to organize the Communist Party and to teach and advocate the overthrow of the United States by force created a "clear and present danger to the Government".
- Why did Burstyn v. Wilson (1952) Supreme Court ruling bring movies under the protection of the First and Fourteenth Amendments?
  - The court ruled that New York authorities lacked the power to censor movies because they may offend some people's "religious sensibilities."
- On what basis did the Supreme Court uphold the right to petition the Government in the case National Association for the Advancement of Colored People v. Alabama (1958)?
  - Court declared "It is beyond debate that freedom to engage in association for the advancement of beliefs and ideas is an inseparable aspect of the liberty protected by the Constitution."
- How did Communist Party of America v. Activities Control Board (1961) affect the 1950 Subversive Activities Control Act?

The court upheld the Act
- Declared that requiring the Communist Party to register with a government board as a "Communist-Action" organization was Constitutional
- Declared the special stamping of a registered organization's mail was regulatory

. Why did the court rule in Dumbrowski v. Pfister (1965) "That the adverse effect on Petitioner's First Amendment Right was "Clear"?

- Declared that a lack of good faith was shown in charging the Petitioner and other NAACP officials.

. How did Keyisitian v. Board of Regents (1967) affect censorship?

- The court declared that the New York loyalty oath requiring a denial of communist affiliation as a prerequisite to teaching at a State University is unconstitutional
- Not a clear and present danger

. What decision was overruled by the case Brandenburg v. Ohio (1969)

- Court overruled a 1927 case which allowed punishment of a person who merely organized or spoke at a rally at which radical or violent doctrine was advocated.
- Court also declared the Ohio Statute unconstitional.

5. THE SUPREME COURT HAS PROVIDED CONFLICT WITH ITS DECISIONS AFFECTING COUNSEL AND TRIAL.

SUGGESTED QUESTIONS RELATED TO THE UNDERSTANDING.

. How did Powell v. Alabama (1932) affect counsel in capital cases?

- Declared a state must provide the accused the right to counsel or appoint counsel for the accused when the accused is unable to do so.

. What decision was overruled by the case Mapp v. Ohio (1961) ? What did Mapp v. Ohio (1961) establish?

- Court overruled its previous (1949) decision.
- Court applied federal constitutional standards of searches and seizures to state practices.

. How did the court rule in Ker v. California (1962).

- Declared that the guarantee against"unreasonable search and seizure"is the same under the Fourth and Fourteenth Amendments.

. How did Gideon V. Wainwright (1963) affect counsel in non capital cases?

- The court ruled that a state court must provide counsel for persons charged with non-capital offenses and the states are required to furnish attorneys to those who cannot afford to hire their own.

. Why did Escobedo v. Illinois (1964) produce conflict in the area of counsel and trial?

- Court declared that when no lawyer is present to advise the suspect of his rights that his constitutional right to counsel is violated and thus the confession the prisoner had made after being taken into custody cannot be used against him.

. How did Miranda v. Arizona (1966) affect Federal and State officials?

- The Court's ruling requires government officials to give suspects specified warnings or equivalent advice before beginning interrogation on the suspect about alleged crimes.

. What specific issues were decided in the Gault Case (1967)

. The court ruled on (1) notice (2) the right to counsel and (3) privilege against self-incrimination.

. What did Williams v. Florida (1970) state on the issue of jury trial?

- Declared that jury trial be mandatory in all serious state, as well as federal cases although a six-man jury is permissible.

. How did Illinois v. Allen (1970) treat the subject of a courtroom behavior?

- The court held that if a defendant after being warned that he will be removed if his disrupting behavior continues, persists in such behavior the defendant can be removed from the courtroom while the trial continues.

6. THE SUPREME COURT HAS CLARIFIED CONSTITUTIONAL STANDARDS FOR DOUBLE JEOPARDY

SUGGESTED QUESTIONS RELATED TO THE UNDERSTANDING.

- What did the Palko v. Connecticut (1937) ruling state?
  - Court declared whatever is forbidden by the Fifth Amendment is also forbidden by the Fourteenth Amendment.
- On what did the court base its decision upon in Palko v. Connecticut (1937)
  - The court held that some of the protections of the Bill of Rights were clearly "implicit in the concept of ordered liberty".
- How did Palico v. Connecticut (1937) affect state governments?
  - That state governments cannot remove protections of the Bill of Rights.

7. THE SUPREME COURT HAS IN CASES OF PROTEST ESTABLISHED GUIDELINES FOR PICKETING AND DEMONSTRATING.

- SUGGESTED QUESTIONS RELATED TO THE UNDERSTANDING.
- What was the court's decision in the case NAACP v. Alabama (1958)
  - Declared that Alabama had failed to show justification for demanding information certain to deter exercise of the right of association.
- How significant was Cox v. Louisiana (1965) in terms of guidelines for picketing?
  - At first the court held the local anti-picketing ordinance constitutional but then reversed the conviction since the police had granted permission.
- Why did the court's decision in the case Brown v. Louisiana (1966) indicate that Freedom of Speech is not restricted to purely verbal expression, but includes some forms of action?
  - The court reversed breach of peace convictions who protested the segregation of a county library by refusing to leave when requested to do so.

- Why did Tinker v. DesMoines School District (1969) become a landmark decision regarding protest against the Vietnam War?

  - The court ruled that school children have the right to wear black armbands as a protest.

- How did Street v. New York (1969) find the court's position regarding the petitioner's argument that desecration of the flag constitutes free speech?

  - Court did not reach the petitioner's argument
  - The court found that the statute as applied to the petitioner permitted him to be punished for speaking with contempt of the flag.

- How did the court rule in Cohen v. California (1971)?

  -Declared that vigorous expression can be used as a means of informing the public.
  -Court set aside a charge of "disturbing the peace"

8. THE SUPREME COURT HAS HAD SIGNIFICANT IMPACT ON EDUCATION THROUGH ITS JUDICIAL DECISIONS.

SUGGESTED QUESTIONS RELATED TO THE UNDERSTANDING

- How did Allston v. School Board of Norfolk (1940) extend the Supreme Court's authority into the area of education?

  - The court by refusing to review the case upheld the decision of the Circuit Court of Appeals - that ruled that Negro teachers had to be paid the same salaries as White teachers if they do the same work.

- Why did Sweatt v. Painter (1950) apply the "equal protection Clause"?

  - This enabled the court to rule that the new law school set up Negroes in Texas did not provide equal educational opportunities.

- How did the court apply the "Equal Protection Clause" in the case McLaurin v. Oklahoma State Regents (1950)

  - Declared that a Negro student must be given the same treatment by the State as the students of other races.

- What was the significance of Brown v. Board of Education of Topeka (1954)?

- Declared that in the field of public education the doctrine of "seperate but equal" facilities is unconstitutional.

. How did Brown v. Board of Education of Topeka (1955) implement the court's 1954 decision?

- Court directed Federal District Courts to supervise the desegregation transition.

. Why did the court use the due process clause of the Fifth Amendment in the case Bolling v. Sharpe (1954)?

- So the court could declare the segregation of schools in the District of Columbia unconstitutional.

- The Fifth Amendment forbids racial segregation by the Federal Government.

9. THE SUPREME COURT HAS AWARDED RULINGS IN THOSE CASES AFFECTING THE CONCEPT OF RELIGION AS STATED IN THE FIRST AMENDMENT TO THE CONSTITUTION.

SUGGESTED QUESTIONS RELATED TO THE UNDERSTANDING.

. How did Minersville School District v. Gobitis (1940) view freedom of religion?

- Declared that freedom of religion is not absolute. Court held state laws requiring school children to salute the flag are constitutional.

. On what basis did the court reverse its decision in the Minersville case in West Virginia State Board of Education v. Barnette (1943)

- Court ruled on the "Invasion of the Sphere of Intellect and Spirit which is the purpose of the First Amendment to reserve from all other control".

. Why did Everson v. Board of Education (1947) become a landmark case in matters related to the First Amendment?

- Declared the right of New Jersey to provide public school bus transportation to Parochial School children.

. How significant was McCollum v. Board of Education (1948)?

- Court established an interpretation of the First Amendment that drew sharp lines separating Church and State.

. What was the impact when the Court established in Zorach v. Clauson (1952) "that when the State encourages religious instruction by adjusting the schedule of public events to sectarian needs, it follows the best of our traditions."

- The court upheld the Constitutionality of New York City's released time program.

10. THE SUPREME COURT HAS ESTABLISHED A "NEW" EQUAL PROTECTION CLAUSE IN CASES RELATED TO CIVIL RIGHTS.

SUGGESTED QUESTIONS RELATED TO THE UNDERSTANDING.

. How did Levy v. Louisiana (1968) apply the "New" Equal Protection Clause?

- The Court invalidated a state court decision which had denied illegitimate children recovery of damages for the wrongful death of their Mother.

. How did Shapiro v. Thompson (1969) become an important social decision?

- The court held invalid the states' one-year resident requirement imposed on all persons seeking welfare assistance.

. What was the impact on the Fourteenth Amendment in Daudridge v. Williams (1970)?

- Court ruled that Maryland's administrative regulation placing a $250 a month limit on AFDC Grants, regardless size did not viclate the Fourteenth Amendment.

. Why did Palmer v. Thompson (1971) indicate a "New" Equal Protection Clause?

- The Court rejected the argument that closing public swimming pools to avoid desegregation violated equal protection.

. What impact did Swann v. Charlotte Mecklenburg Board of Education (1971) have on business?

- The court held valid a desegregation plan that involved busing.

- How did North Carolina State Board of Education v. Swann (1971) invalidate a state statute prohibiting assignment or bussing of students?

  - The court ruled on the basis of race or for the purpose of creating racial balance.

- Why did Keyes v. Denver School District No. 1 (1973) become hostile to private school supporters?

  - Declared that aid to private schools practicing racial discrimination is unconstitutional.

11. IN ITS RULINGS ON ABORTION AND OBSCENITY CASES THE SUPREME COURT HAS PROVOKED CONSIDERABLE CONTROVERSY OVER THE CONCEPT, "QUALITY OF LIFE."

SUGGESTED QUESTIONS RELATED TO THE UNDERSTANDING.

- What legislation has the Supreme Court imposed on abortion?

  - Eisenstadt v. Baird (1972)
  - Roe v. Wade (1973)
  - Doe v. Bolton (1973)

- How did the court rule in Stanley v. Georgia (1959)

  - Declared that mere private possession of obscene materials was protected by the First Amendment.

- How did Roth v. United States (1957) define obscenity?

  - The Court..."whether to the average person, applying contemporary community standards, the dominant theme of the material taken as a whole appeals to prurient interest."

- Why did Ginsburg v. United States (1966) extend its score into obscenity?

  - The Court declared that the constitutional protection for printed matter might be lost in a close case by the way in which it was advertised sold and distributed.

- Why did Ginsburg V. New York (1968) uphold the constitutionality of a New York criminal obscenity statute that prohibits the sale to minors under 17 of material defined to be obscene?

- The court ruled on the basis of its appeal to minors regardless whether or not it would be obscene to adults.

. How did Miller v. California (1973) change the source of the standards in judging obscenity?

. Declared..."to require a state to structure obscenity proceedings around evidence of a national community standard would be an exercise in futility."

12. THE SUPREME COURT HAS USED THE "EQUAL PROTECTION CLAUSE" IN CASES INVOLVING SEX DISCRIMINATION.

SUGGESTED QUESTIONS RELATED TO THE UNDERSTANDING

. How did Goesaert v. Cleary (1943) break down sex barriers for women?

- The court upheld a Michigan law that permitted women to work in bars and taverns.

. What did Reed v. Reed (1971) contribute to eliminating sex discrimination?

- Declared that the Idaho Law that forbade women to serve as executors of estates is unconstitutional.

. How did the Supreme Court use the "Equal Protection Clause" in other sex discrimination cases?

- Alexander v. Louisiana, 1972
- Frontiero v. Richardson, 1973
- Pittsburgh Press Co. v. Human Relations Commission, 1973